

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES T. RUSSELL,)	
)	
Plaintiff,)	
)	
v.)	02: 06-cv-01668
)	
BOARD OF PUBLIC EDUCATION OF)	
THE SCHOOL DISTRICT OF)	
PITTSBURGH,)	
)	
Defendant.)	

MEMORANDUM ORDER OF COURT

Presently before the Court is counsel for Plaintiff's oral MOTION FOR RECONSIDERATION of the Court's Order of April 1, 2009, which granted in part and denied in part the Motion for Clarification of Order Granting in Part and Denying Part Defendant's Motion in Limine No. 1: Exclusion of Other Claims and Settlements.

After oral arguments and upon further review of the Settlement Agreement and Release, specifically Paragraph 11 which states in relevant part that "the School District will not retaliate against Russell or harass him in any fashion" and upon further consideration of Plaintiff's theory of prior retaliatory motive / pattern of antagonism, the Court finds that because the credibility of the key witnesses is crucial to the jury's determination of the facts of this matter, the Court hereby reconsiders its Order of April 1, 2009, recognizing that it can encourage, but cannot mandate the parties to stipulate facts and, therefore, will permit the parties to present testimony and evidence on the recited allegations of Plaintiff's 2000 federal complaint, as set forth in the Court's April 1, 2009 Memorandum Order (Document No. 107), as well as the allegations set forth in Plaintiff's discrimination and protected activity complaints

with the Pennsylvania Human Relations Commission and/or the Equal Employment Opportunity Commission filed after the 2000 lawsuit.

With that said, however, counsel are reminded that the Court will be evermindful and vigilant regarding evidentiary issues and the balancing test required under Federal Rule of Evidence 403.

So **ORDERED** this 2nd day of April, 2009.

BY THE COURT:

s/Terrence F. McVerry
United States District Court

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